

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

BRANDON WILDER,
Individually and on behalf of all others
similarly situated

Plaintiff,

v.

THE KROGER CO.,

Defendant.

§
§
§
§
§
§
§
§
§
§

Civil Action No. 1:22-cv-00681-JPH

JURY TRIAL DEMANDED

COLLECTIVE ACTION
PURSUANT TO 29 U.S.C. § 216(b)

CLASS ACTION PURSUANT TO
FED. R. CIV. P. 23(B)(3)

JOINT MOTION TO STAY CASE AND STIPULATION REGARDING TOLLING OF
THE STATUTE OF LIMITATIONS

TO THE HONORABLE COURT:

Plaintiff Brandon Wilder (“Plaintiff”) and Defendant The Kroger Co. (“Kroger”) (collectively, “the Parties”), jointly move this Court to stay the case and stipulate to tolling of the statute of limitations for all persons who become members of any putative class or collective in this action from February 3, 2023, until June 15, 2023.

1. Counsel for the Parties are currently engaged in settlement negotiations and intend to mediate this matter on or before June 14, 2023. The Parties seek a stay of the case to facilitate these ongoing negotiations and to allow for mediation.

2. The Parties further stipulate that the statute of limitations for all future opt-ins in this case only, if any, is tolled from February 3, 2023, until June 14, 2023. The Parties agree that this tolling period is the same length as the stay and is contingent on the stay remaining in place until June 14, 2023.

3. If the stay is terminated early, the Parties agree that the tolling periods ends on the date on which the stay ends. This tolling agreement extends only to the future opt-ins' potential claims under the FLSA in this lawsuit; it does not extend to any FLSA claims or other claims that the future opt-ins may assert in any other current or future lawsuit against Kroger.

4. No prejudice will result to either Party by granting this request, nor will any Putative Class Member be prejudiced, as the Parties stipulate to tolling of the statute of limitations as is set forth above.

5. The Parties attest this Motion is not made for the purpose of the delay.

WHEREFORE, the Parties respectfully request this Court grant the requested stay of this matter and toll the statute of limitations for the Putative Class Members from February 3, 2023, until June 15, 2023 so that the Parties can pursue. Potential resolution to this matter.

Date: February 6, 2023

Respectfully submitted,

By: /s/ Robert E. DeRose
Robert E. DeRose (OH Bar No. 005214)
bderose@barkanmeizlish.com
BARKAN MEIZLISH DEROSE COX, LLP
4200 Regent Street, Suite 210
Columbus, Ohio 43219
Telephone: (614) 221-4221
Facsimile: (614) 744-2300

By: /s/ Clif Alexander
Clif Alexander (admitted *pro hac vice*)
Texas Bar No. 24064805
clif@a2xlaw.com
Austin W. Anderson (application *pro hac vice* forthcoming)
Texas Bar No. 24045189
austin@a2xlaw.com
ANDERSON ALEXANDER, PLLC
819 N. Upper Broadway
Corpus Christi, Texas 78401
Telephone: (361) 452-1279
Facsimile: (361) 452-1284

Counsel for Plaintiffs and the Putative

Class Members

VORYS SATER SEYMOUR AND PEASE LLP

By: /s/ George L. Stevens
George L. Stevens (0092609)
Mark A. Knueve (0092609)
Rylee R. Snively (0101445)
52 East Gay Street
Columbus, OH 43215
(614) 464-5448
glstevens@vorys.com
maknueve@vorys.com
rrsnively@vorys.com

Counsel for The Kroger Co.

CERTIFICATE OF SERVICE

I hereby certify that on February 6, 2023, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Southern District of Ohio using the electronic case filing system of the court. The electronic case filing system sent a “Notice of Electronic Filing” to the attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means.

/s/ Clif Alexander
Clif Alexander